STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED November 9, 2006
v	No. 263861 Bay County Circuit Court
ROBERT EUGENE COLEMAN, Defendant-Appellant.	LC No. 04-010014-FH

Before: Fort Hood, P.J., and Murray and Donofrio, JJ.

PER CURIAM.

Defendant appeals by right from his conviction and sentence for possession of child sexually abusive material, MCL 750.145c(4). We affirm.

On appeal, defendant claims that there was insufficient evidence of "knowing possession" to sustain a conviction. We disagree.

We review all sufficiency claims *de novo*, in a light most favorable to the prosecution, to determine whether any rational trier of fact could have found that the essential elements of the crime charged were proved beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992). It is for the trier of fact, and not this Court, to determine what inferences may fairly be drawn from the evidence and to determine the weight to be accorded to those inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002).

MCL 750.145c(4) requires that the prosecutor show that the defendant "knowingly possessed" child sexually abusive material on his computer. Indeed, the prosecutor must show more than the presence of child sexually abusive material in a temporary internet file or in a computer recycle bin to prove that the defendant "knowingly possessed" child pornography. *People v Girard*, 269 Mich App 15, 20; 709 NW2d 229 (2005).

The proofs at defendant's trial showed that his neighbor was present and saw him download child pornography onto his computer and joke about it. When police investigators questioned the defendant in his home on June 3, 2003, defendant admitted that he had child pornography on his computer. He claimed that he had downloaded this material after finding it at the Kazaa website, and that he sent the information to the Bay City Police Department. At that time, authorities found two explicit pictures of children engaging in sexual activity in unallocated

disc space on defendant's hard drive. Police later found more than a dozen explicit videos in defendant's temporary internet file. Two witnesses testified that the police never received any information from defendant regarding child sexually abusive material on the Kazaa website.

Defendant admitted that he owned the computer and that he was the principal user. When he was questioned a second time, defendant admitted to viewing child pornography many times at the Kazaa site. He viewed between 500 and 100 photographs, and 25 to 50 videos. He admitted downloading many photos, but to sending the police only a very few.

It is clear from trial testimony that defendant is not well versed in computer technology. However, the evidence also showed that he was not an unsophisticated user. He knew that viruses were present on his computer, and that repairs would expose the fact that illegal materials were on the computer. He knew how to operate the Kazaa website file sharing system, download illegal material, and copy it to discs. More importantly, he knew how to prevent others for accessing shared files on his computer via the Kazaa file sharing system.

From the evidence adduced at trial, jurors could have found that defendant lied about illegal material being on his computer. He told his neighbor that other family members were responsible for downloading explicit material onto his computer, and that he had "forgotten" to delete it. Defendant told an entirely implausible tale about looking for his wife's step-father and defendant's suspicion that this man, whom defendant could not even name, was involved in taking pornographic pictures of children. Defendant also claimed, without any support, that he had forwarded information about child pornography that he found on the Kazaa site to police and a person called "Wolfman."

The sheer numbers of the videos found on the defendant's computer hard drive, the size of the files, and the names attached to the files indicate that defendant simply could not have put this material on his computer by accident.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Christopher M. Murray
/s/ Pat M. Donofrio